HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16896 of 2006

Dated:19.09.2006

Between:

P.Natarajan.

…Petitioners

and

The Mandal Revenue Officer.

…Respondent

HON'BLE SRI JUSTICE V.V.S.RAO

WRIT PETITION No.16896 of 2006

ORDER:

This Writ Petition is filed seeking a writ of mandamus declaring the action of the respondent, namely the Mandal Revenue Officer (MRO), Puttur Mandal, Chittoor District, in attempting to occupy the petitioner's land admeasuring Ac.1.95 cents in Survey No.186/2 and an extent of Ac.0.05 cents in Survey No.188/1 of Nesanuru Village of Puttur Mandal in Chittoor District, as illegal and arbitrary.

The brief fact of the matter as disclosed in the affidavit accompanying the Writ Petition is as follows. The land admeasuring Acs.3.90 cents in Survey No.186/2 of Nesanuru Village was originally assigned to one Bellamkonda Narayana Swamy. The petitioner herein purchased an extent of Ac.1.95 cents from out of the said assigned land under registered sale deed dated 02.06.1969. He also purchased another extent of Ac.0.40 cents in Survey No.186/2 of the same Village under registered sale deed dated 29.07.1969 from M/s.V.Patchapu Reddy, V.Krishna Reddy and Menati Narayana Reddy. He also purchased another extent of land admeasuring Ac.0.05 cents in Survey No.188/1 with a view to dig a bore-well. The petitioner allegedly dug a bore-well and is cultivating the land, and claims himself to be a landless poor person entitled to the protection under Section 3(5) of the Andhra Pradesh Assigned Lands (Prohibition of Transfers) Act, 1977 (for short 'the Act'). The petitioner alleges that

the respondent issued D-Form pattas in favour of the petitioner's wife and daughter and also issued pattadar pass books and title deeds in their favour. He states that he was appointed as a casual sweeper in the APSRTC in 1978 and retired from service in 2001. It appears, on 24.07.2006 the MRO and his staff measured the land and planted cement stones informing that the land is being assigned to poor persons for house sites under Integrated Novel Development in Rural Areas and Model Municipal Areas. Therefore, the petitioner filed the present Writ Petition.

At the stage of admission itself the MRO has filed a counter affidavit along with all the necessary documents. It is stated that the land admeasuring Acs.3.90 cents in Survey No.186/2 was originally assigned to Narayana Swamy on 31.12.1960. But the land was not cultivated by the assignee, and therefore, by proceedings dated 27.12.2000, the assignment was cancelled. The petitioner's wife applied for assignment of the land. In 2001 an extent of Ac.1.18 cents in Survey No.188/2 was assigned to the wife of the petitioner, Smt.Rukminamma. She did not cultivate the land. Therefore, the MRO issued a show cause notice in Roc.A/193/04, dated 25.10.2004, to show cause as to why DKT patta issued to her should not be cancelled. Notice was sent through the Village Secretary and Revenue Inspector, which could not be served, as the assignee Rukminamma was not residing in Nesanuru Village. Therefore, the notice was affixed near the land. Subsequently, by proceedings bearing No.Roc.A/193/04, dated 25.10.2004, the Mandal Revenue Officer cancelled the assignment resuming the land from Rukminamma as well as six others. It is further stated in the counter affidavit that the petitioner's wife is not a landless poor person. The petitioner himself is an employee of APSRTC who retired in 2001. The land is proposed to be allotted as house sites to houseless poor persons.

It is strenuously contended by the learned Counsel for the petitioner that notice was never given to the petitioner or his wife while allegedly resuming the land from the possession of the petitioner. Secondly, he would urge that the petitioner is landless poor person, and therefore under Section 3(5) of the Act, he is entitled to the protection of not being evicted from the land he purchased in 1969 from the original assignee. Lastly, he submits that a copy of the notice or copy of the proceedings resuming the land are not served on the petitioner, and therefore, the availability of alternative remedy under the Board Standing Orders is not a bar. **Per contra**, the learned

Assistant Government Pleader for Revenue (General) submits that the petitioner or his wife are not residing in the Village, and therefore, the notice was affixed near the land and the proceedings were issued for resumption of the land.

The learned Assistant Government has produced before this Court the relevant documents including the notice issued to the petitioner's wife and the proceedings of the MRO resuming the land on the ground that the assignees did not cultivate the land. A reply affidavit is filed by the petitioner stating that the respondent fabricated the records and that notice was not given at the time of cancellation of assignment made in favour of Narayana Swamy. There is no denial that the petitioner purchased assigned land. The assignment was cancelled by the MRO resuming the land from Narayana Swamy on the ground that he transferred the land in contravention of the provisions of Section 3(2) of the Act. The order of resumption passed then has become final and the same cannot be raked up now. Secondly, the material placed before this Court would show that subsequently the land was assigned to the petitioner's wife, that she failed to cultivate the land, and therefore, after issuing notice, the land was resumed for violation of terms of assignment. There is no strong reason to disbelieve the counter averments or the documents filed by the MRO. In such a situation whether the petitioner and his wife are residing in Nesanuru Village or whether the petitioner or his wife are cultivating the land and whether the petitioner is entitled to continue in possession by reason of Section 3(5) of the Act are the matters which require proper verification of the records and verification of facts. In such a situation the remedy for the petitioner would have been to get an appeal filed by his wife against the cancellation orders. The assignment in favour of Narayana Swamy from whom the petitioner purchased was cancelled on 27.12.2000 and if the petitioner still disputes the same he can agitate it before the appellate authority. Similarly, if the cancellation of assignment in favour of petitioner's wife is the grievance, under Board Standing Order 15(15) an appeal can always be filed before the Revenue Divisional Officer. The petitioner may avail this remedy. In this Writ Petition, he cannot be granted any relief.

The Writ Petition is accordingly dismissed. No costs.

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(V.V.S.RAO, J)

19.09.2006

vs